Noncompliance Identification, Reporting, Tracking, and Closure

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Objectives

- ✓ **Why report?**

- ✓ **PAAA noncompliance identification (screening)**

- ✓ **Evaluation for reportability**

- ✓ **Tracking and closure of noncompliances**

- ✓ **Coordinator responsibilities**

- ✓ **10 CFR 851**

Why Report?

- ✓ **Represents a significant portion of coordinator's responsibilities**

- ✓ **Per 820 and 851, reporting a voluntary function**

- ✓ **Potential for exercise of enforcement discretion or mitigation of civil penalties**

Process Overview

- ✓ **Review information sources**

- ✓ **Screen for PAAA applicability**

- ✓ **Review for NTS reportability**

- ✓ **Investigation/causal analysis**

- ✓ **Corrective action development**

- ✓ **Formally track to closure**

- ✓ **Verification of closure**

✓ **Contractors review various information sources to identify potential noncompliances**

✓ **Typical sources include:**
- Audits/Assessments
- NCRs/RDRs/CARs/WSH analogues
- Events
- Employee Concerns
- External Reviews
- Lessons Learned
- Trending Information

Identification Through Events

- ✓ **Investigations of events – major source of potential noncompliances**

- ✓ **Identified noncompliances generally not credited as self-identified**

- ✓ **Retrospective vs. prospective – OE focus area**

Noncompliance Screening

✓ **Identified issues are reviewed to see if they represents PAAA noncompliances**
  – Applicability of DOE Nuclear Safety Requirements
  – Was there a noncompliance with those requirements?

✓ **Who performs screen?**
  – DOE not prescriptive
  – Process determined by contractor
  – Centralized/decentralized approaches

Helping the field succeed with safe and reliable operations.

✓ **Screening forms or logs typically used (examples)**

✓ **Reference the Program Review Letters provided on the OE web page for additional discussion of contractor processes**

(http://www.eh.doe.gov/enforce/)

✓ **Failure to evaluate all sources for potential noncompliances (including assessments)**

✓ **Inappropriate determination that a noncompliance is not PAAA due to:**
- Low safety significance
- Immediate corrective actions
- Self-imposed criteria to limit scope of rule

✓ **Problems determined to be PAAA noncompliances should be evaluated for reportability into the DOE Noncompliance Tracking System (NTS)**

✓ **Non-PAAA problems should be handled using established problem resolution processes**

Noncompliance Reporting Thresholds

✓ **NTS Thresholds**
  – Table 3-1 of Operational Procedures and
     Table 3-2 of EGS 03-02
  – Interim WSH Thresholds

✓ **Meet or Exceed Thresholds**
  – Report to NTS

✓ **Below Thresholds**
  – "Report" to local PAAA issue tracking system (or centralized tracking system)

Table 3-1 thresholds involve the following deficiencies:

✓ **Programmatic Issues**

✓ **Repetitive Issues**

✓ **Intentional Violation or Misrepresentation**

✓ **Programmatic**

– Occurrence of related (but not identical) noncompliances in a program area. Generally involves some weakness in administrative or management controls. Requires evaluation of deficiencies on a site wide basis.

✓ **Repetitive Issues**

– Same or closely similar noncompliance continues to occur, indicating corrective actions have not been effective.

✓ **Intentional**
– Knowing and willful violation of nuclear safety requirements
– Not memory loss

✓ **Misrepresentation**
– Alteration, concealment or destruction of documentation related to a violation of nuclear safety requirements.

Significance – Individual examples are significant as they threaten the integrity of the reporting process

✓ **Table 3-2 thresholds based on ORPS categories**

- Event *and* an identified noncompliance

✓ **Current Table 3-2 thresholds can be found in EGS 03-02**

A nuclear facility at a DOE site identifies three instances during a two week period in which workers fail to comply with controls contained in a radiological work permit (RWP). In one instance, the failure results from ambiguity in the RWP controls. In the second instance, the work supervisor chose to deliberately ignore an RWP requirement due to the temporary unavailability of an RCT. In the third instance, the failure resulted from the use of an obsolete version of the RWP.

1. Would the above failures constitute PAAA noncompliances?
2. Would the above failures be candidates for NTS reporting based on the repetitive threshold?
3. Would the above failures be candidates for NTS reporting due to any other reason?
4. What would be reasonable next actions by the contractor?

An event and associated PAAA noncompliance occur that meets the thresholds for reporting to the NTS. Corrective actions are identified for this noncompliance. Before all relevant corrective actions are implemented, a second similar noncompliance occurs.

Should the second occurrence trigger the generation of a separate (repetitive) NTS report? What additional actions should the contractor be taking?

An electrician inadvertently fails to comply with the local LO/TO procedure when tagging out a ventilation fan prior to maintenance in a nuclear facility. The electrician had received annual re-training on the LO/TO procedure six weeks prior to the work. Did the LO/TO procedural violation represent an intentional violation, and should it consequently be reported to the NTS?

Contractor routine bioassay results indicate an exposure for worker A in excess of the DOE limit of 5 rem. The contractor initiates an exhaustive investigation, which includes a detailed review of all RWPs and work activities the worker has been involved in, and is unable to attribute the intake to any event, deficiency, or poor work practice.

Since the contractor is unable to identify a problem or deficiency, did a PAAA noncompliance occur? If so, should it be reported on NTS?

- ✓ **820 provides for up to 50% mitigation for prompt identification and timely self-reporting**

- ✓ **Prompt identification – case by case**

- ✓ **Timely reporting - generally done within 20 days after determination of the noncompliance**

- ✓ **Events – typically viewed as self-identifying**

Disagreements Over Reportability

What if contractor/local DOE disagree on reportability?

- ✓ When in doubt, report (mitigation opportunity)

- ✓ Need for timely communication

- ✓ DOE can issue own NTS report

Expected Information

Information to be provided in NTS –

- ✓ Clear, factual, objective description of noncompliance – with enough information to give reviewer an understanding of the problem and significance

- ✓ Brief summary of the root causes, corrective actions (CA), target and actual completion dates (if completed – ok to update)

- ✓ Acceptable to reference ORPS report

Non-NTS Reportable

- ✓ **Existing contractor systems are used to record and track non-NTS reportable noncompliances**

- ✓ **Tracking system should be capable of retrieving PAAA noncompliances and be readily accessible by DOE**

- ✓ **Contractor trending of local issues for NTS reportability (centralized system improves capability)**

✓ **CAs should address root causes**

✓ **CAs should be formally tracked (NTS or internal system)**

✓ **Closure is based on completion of CAs**

✓ **Effectiveness review should be performed to verify adequacy of significant CAs – can be tracked as a CA or separately**

Contractor Coordinator responsible for:

✓ **Validating completion of CAs prior to closure**

  – Ensure actions complete, comprehensive

  – Ensures actions address root causes

✓ **Marking NTS report as complete**

DOE PAAA Coordinator responsible for:

✓ **Verifying completion of CAs (typically work with Fac Reps, SMEs)**

– Review evidence/documentation that actions completed as stated

– Performance support closure

✓ **Entering verification results into NTS with clear recommendation for closure**

OE Enforcement Officer responsible for:

✓ **Monitoring completion status of NTS reports**

✓ **Reviewing CA completion and closure recommendation from DOE Coordinator**

✓ **Closing the NTS report**

Non-NTS Reportable

- ✓ **Contractor Coordinator**
  - Closure validation (similar to NTS report)

- ✓ **DOE Coordinator**
  - Periodically review status and trends of local noncompliances; no verification needed for closure

- ✓ **OE Enforcement Officer**
  - Review during PAAA Program Review

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